

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

WRIT PETITION NO : 4113 of 1994

Between:

Mamidipudi Ramanaiah S/o.Kotaiah
Harijana Wada Vakadu Village and Mandal
Nellore Dist

..... PETITIONER

AND

- 1 The Joint Collector Nellore
- 2 The Mandal Revenue Officer Vakadu
Nellore Dist
- 3 Kakumalla Penchalaiah Vakadu village
Nellore Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of certiorari calling for the records relating to the proceedings D.Dis.No.7124/93, Dt.6/1/1994 issued by the 1st respondent herein, seeking to cancel the allotment of the land admeasuring Ac.0.86 cents in S.NO.518/P of Vakadu Village and Mandal Nellore District in favour of the petitioner with directions to assign the said land in favour of the 3rd respondent and quash the same by declaring it as arbitrary, whimsical, capricious illegal and violative of Art.21 of the Constitution of India and pass such other order.

Counsel for the Petitioner: MR.S.A.CHARI

Counsel for the Respondents: GP FOR REVENUE

The Court made the following O R D E R:

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_____ This writ petition is filed challenging the order cancelling the assignment in favour of the petitioner by Joint Collector, Nellore, by an order dated 06-01-1994.

_____ Nobody appears for respondent No.3 despite service.

_____ It is not disputed that the land in question was allotted to the petitioner by Mandal Revenue Officer, Vakadu, Nellore District, but it was cancelled by the Joint Collector on the pretext that there was a mistake of fact. The mistake of fact, according to him was that the land prior to its assignment to the petitioner was in occupation of respondent No.3.

_____ The counter shows that a chunk of land had been assigned to five persons, that land included the land assigned to the petitioner as well. That land had not been occupied for three years and had also not been cultivated for three years by the persons to whom it had been allotted. Therefore, the Mandal Revenue Officer cancelled that assignment and assigned part of the land to the petitioner. The Joint Collector came to the conclusion that respondent No.3 was in possession of the land before it was assigned to the petitioner. As a matter of fact, there had been no assignment in favour of respondent No.3 at any point of time. Since the assignment had been in favour of some others, who had not cultivated the land and who had no grievance against the assignment of land to the petitioner, I do not think the Joint Collector was right in canceling the assignment.

_____ For this reason alone, the impugned order is quashed and the writ petition is allowed. No order as to costs.

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The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this
Thursday, the Seventeenth day of June, Two thousand and Four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

17.06.2004

To

1. The Joint Collector Nellore
2. The Mandal Revenue Officer Vakadu
Nellore Dist
3. 2 CCs to G.P. for Revenue, High Court Buildings,
Hyderabad (OUT)
4. 2 CD copies

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